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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/930,398	08/15/2001	Christine Carlucci	866.0002	1023

7590 04/09/2003

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EXAMINER

EREZO, DARWIN P

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 04/09/2003

5

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/930,398

Applicant(s)

CARLUCCI ET AL.

Examiner

Darwin P. Erez

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 January 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

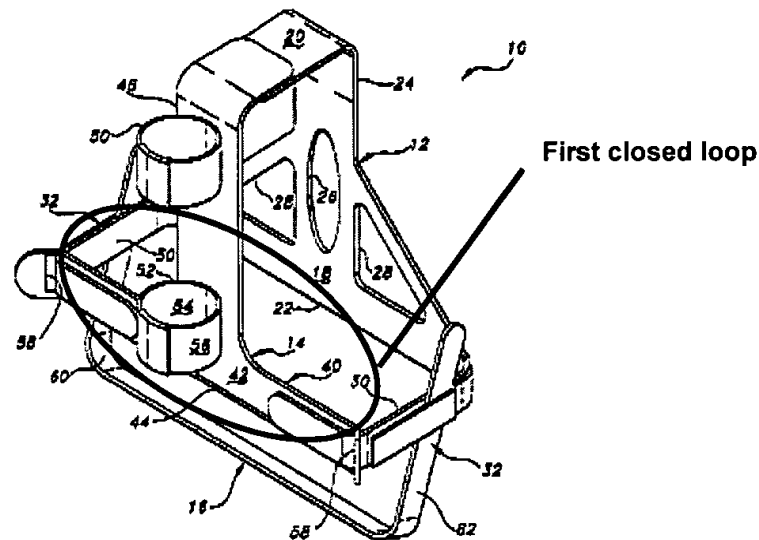
2. Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over 6,269,814 to Blaszczykiewicz et al.

3. **As to claim 1**, Blaszczykiewicz et al. teaches a device to secure medical tubing to a body comprising a fabric band having at least a first closed loop (see attached Fig. 1) and a second closed loop **50**, wherein the first closed loop fits elastically around a portion of the body and the second closed loop is capable of receiving and holding medical tubing close to the body. Blaszczykiewicz is silent with regards to a one-piece fabric band. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make fabric band of Blaszczykiewicz one-piece since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. *Howard v. Detroit Stove Works*, 150 U.S. 164 (1893).

4. **As to claim 2**, Blaszczykiewicz et al. teaches a portion of the body being a head.

5. **As to claim 3**, Blaszczykiewicz et al. teaches the fabric band comprising non-irritating material (col. 2, line 38).

6. **As to claim 4**, Blaszczykiewicz et al. teaches the fabric band lined with friction creating material (Velcro).



7. **As to claim 5**, Blaszczykiewicz et al. teaches the fabric band having stitching (joined) to form the closed loops.

8. **As to claim 6**, Blaszczykiewicz et al. teaches a device to secure medical tubing to a body comprising a fabric band having a first closed loop (see attached Fig. 1), a second closed loop 50 and a third closed loop 52 wherein the first closed loop fits elastically around a portion of the body and the second and third closed loops are capable of receiving and holding a medical tubing close to the body. Blaszczykiewicz is silent with regards to a one-piece fabric band. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make fabric band of Blaszczykiewicz one-piece since it has been held that forming in one piece an

article which has formerly been formed in two pieces and put together involves only routine skill in the art. *Howard v. Detroit Stove Works*, 150 U.S. 164 (1893).

9. **As to claim 7**, Blaszczykiewicz et al. teaches a device wherein the portion of the body is a head.

10. **As to claim 8**, Blaszczykiewicz et al. teaches the fabric band comprising non-irritating material (col. 2, line 38).

11. **As to claim 9**, Blaszczykiewicz et al. teaches the fabric band lined with friction creating material (Velcro).

12. **As to claim 10**, Blaszczykiewicz et al. teaches the fabric band having stitching (joined) to form the closed loops.

13. **As to claim 11**, Blaszczykiewicz et al. teaches a device to secure medical tubing to a body comprising a band having a width wherein the stitching (joined) along the width joins portions of the band to form a first closed loop (see attached Fig. 1), a second closed loop **50** and a third closed loop **52**, and wherein the first closed loop fits elastically around a portion of the body and the second and third closed loops are capable of receiving and holding medical tubing close to the body. Blaszczykiewicz is silent with regards to a one-piece fabric band. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make fabric band of Blaszczykiewicz one-piece since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. *Howard v. Detroit Stove Works*, 150 U.S. 164 (1893).

14. **As to claim 12**, Blaszczykiewicz et al. teaches a device wherein the portion of the body is a head.

15. **As to claim 13**, Blaszczykiewicz et al. teaches the fabric band comprising non-irritating material (col. 2, line 38).

16. **As to claim 14**, Blaszczykiewicz et al. teaches the fabric band lined with friction creating material (Velcro).

### ***Response to Arguments***

17. Applicant's arguments with respect to claims 1-14 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

18. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

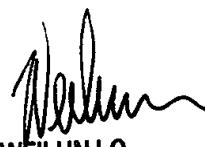
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Darwin P. Erez whose telephone number is (703) 605-0420. The examiner can normally be reached on M-F (8:30-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on (703) 308-1957. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

dpe  
April 7, 2003

  
WEILUN LO  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700